

#### **430.0000 PRINTING AND RELATED ARTS—Regulation 1541**

*See also Advertising Agencies, Commercial Artists and Designers; Automatic Data Processing Services and Equipment; Mailing Lists and Services; Producing, Fabricating and Processing Property Furnished by Consumers— General Rules; Service Enterprises Generally.*

##### **(a) IN GENERAL—ACTIVITIES CONSIDERED SERVICES OR SALES.**

**430.0025 Admarking.** Admarking is a process of addressing. It is used in place of labels on outer envelopes or in the business reply card. Accordingly, the charges for addressing the outer envelopes would not be subject to tax. However, the charges for printing of addresses on business reply cards is subject to tax. 4/9/86.

**430.0055 Calligraphy.** Calligraphy is regarded as artwork. Tax applies to calligraphy charges, even in circumstances where calligraphy is done on paper or to other products supplied by the customer. However, tax does not apply when calligraphy is done as addressing for the purpose of mailing. (Regulation 1541(c).) 12/9/93.

**430.0060 Collating Services—Printing.** Collating, the placing of printed materials into a desired order, is taxable processing labor if it is part of a printing or binding operation resulting in the manufacture of an end item whose sale is not exempt from the sales and use tax. 6/1/65.

**430.0061 Composed Type—Line Borders.** A medical publishing company has manuscripts written by physicians which are then put into the publisher's format by a designer. The firm prepares the manuscript and illustration for printing and the film is given to a printer for completion of the process of booklet production. The designer's work consists of only typography with straight line borders around areas designated for illustrations.

For purposes of Regulation 1541, composed type together with line borders of plain or straight lines is considered to be "composed type only." Therefore, tax does not apply to the designer's charge for a product in the form of a layout consisting of only composed type and boxes of plain lines with notations within the boxes to designate position and sizes of illustrations. The fact that the designer may use a copy of an illustration for placement purposes and not to incorporate an image of it in the layout would not affect the application of the tax. It would still be exempt from tax. 8/11/94.

**430.0061.350 Composition of Type Matter.** The following are the steps used by a taxpayer in producing a final print of its type composition service:

- (1) The customer provides the basic material that is to be set up. The taxpayer creates the set up on a computer which creates a floppy disc.
- (2) This disc is then put into a computer typesetter which transfers the material onto sensitized paper.
- (3) The sensitized paper is developed just like photography film and a developed print is provided.
- (4) The developed print plus two copies (ordered by the customer) is sent to the customer for editing and/or any other corrections.
- (5) After the editing and correction, the print is returned to the taxpayer to obtain the final print. This could result in the repeat of steps one through four.
- (6) The customer only wants the final copy because it is used to make the camera ready copy to be used for reproduction purposes.
- (7) In addition to the final print, the customer orders and gets two copies of the print. These two copies are for layout and mock-up purposes by the customer's art department and editorial director.

In this situation, the final print is the direct product of the type composition service. The two copies furnished to the customer in step four for editing and correcting to produce the final print are furnished incidental to the type composition service. Tax does not apply to the taxpayer's charge for the type composition or the copies incidentally furnished.

However, the copies provided in step seven for use in layout and mock-up purposes are not incidental to the type composition service. Accordingly, tax applies to the charge for such copies. 9/20/83.

**430.0065 Customer Printout of Mailing Labels.** A commercial mailer has received a mailing list from a customer that requires upgrading to zip+4 addressing.

Assuming the commercial mailer is only providing nontaxable mailing services to the customer the upgrading of the zip code to zip+4 is part of the service, and the charge is nontaxable. 11/2/92.

**430.0067 Cutting and Folding.** A printer provided the following situations, and asked for information on the application of the sales tax.

(1) A customer brings in some paper for us to cut.

When you make a charge for cutting paper for a customer who is a consumer, the charge is subject to tax as a sale of fabrication labor. (Revenue and Taxation Code section 6006(b).)

(2) Same as (1) except we provide the paper instead of the customer.

Tax applies to your total gross receipts from the sale including your charge for cutting the paper.

(3) A customer brings in a job, printed elsewhere, for us to cut and fold.

Sales tax applies to your charge for cutting and folding the customer's paper. However, if folding is for the purpose of mailing, and the charge for folding is separately stated on the invoice, it would be nontaxable. (Regulation 1541(c).) [now 1541(g).]

(4) Same as (3) but customer is producing a brochure (map of the area with business card size advertisements) as a free promotional service. He does not charge anyone for the brochure. He does charge people for their advertisements. He mails 10% through the post office and delivers the rest himself.

From the information provided it appears that the brochure does not qualify as an exempt periodical. Accordingly, tax applies to your charge for cutting and folding except the charge for folding is nontaxable when folding is only for the purpose of mailing as noted in situation (3) above.

(5) Same as (4) but we do the whole job. The customer provides camera ready copy.

Sales tax applies to your charge. However, folding charges may be exempt as explained in (3) above. 6/5/91. (Am. 2001-3).

(Note: Regulation 1541 was amended September 1, 1999. Reader should note changes to the subdivision indicated above.)

**430.0067.825 Design Concepts.** The transfer of design concepts which do not constitute engineering drawings is taxable whether they are transferred on paper or disk. The fact that the designs are preliminary or may be modified by the customer is immaterial. 4/10/95.

**430.0068 Desktop Publishing.** A person designs master pages (mechanicals) for business cards, letter heads, forms, and newsletters with a desktop publisher. He also buys paper and envelopes for the printing job which he takes to the printer along with the mechanical for the reproduction of copies.

When the person contracts to provide not only the page design and typography but also the printed matter, tax applies to total gross receipts including the charge for designing the pages and the typography. 5/26/88.

**430.0080 Duplicating Form Letters.** The process of duplicating form letters should be regarded, for sales tax purposes, as similar to mimeographing or multigraphing and the tax, accordingly, as applicable to charges for the furnishing of letters thus duplicated.

The only reason for not regarding the furnishing of typed letters as taxable is that the personal service element is considered to outweigh the sale element. It is merely a matter of degree, but where letters are produced by “mass production” methods as by mimeographing, multigraphing, or some other method of duplication, the process is simply another form of printing and the charges are, therefore, taxable. 1/30/51.

**430.0100 Embossing.** The charge for embossing a customer’s name on new items is taxable, but not on used items. 1/26/50.

**430.0140 Engraving New Items.** The charge for engraving new items which are furnished by consumers, is taxable. 7/26/50.

**430.0145 Folding Printed Material.** A customer purchases a single-page advertisement and has the printer fold the single page twice to permit insertion into an envelope.

If the folding of the advertisement is merely incidental to the nontaxable mailing service provided by the printer, tax does not apply to the charge for folding. However, if a customer contracts to have the printer provide brochures that are folded, tax applies to the total amount charged to the customer including the charge for folding. 11/2/92.

**430.0146 Hand Lettering.** A person hand letters names and dates on documents, e.g., certificates awarded for achievements, etc., furnished by customers. The work is regarded as similar to an engraver’s handwork in inscribing names and dates on trophies. The lettering is regarded as artwork. The charges are subject to tax. 9/16/75.

**430.0146.250 Inserting.** Charges for inserting printed material furnished by a customer to form a distinct end product is a charge for fabricating tangible personal property and subject to tax under Regulation 1526. For example, insertion of unattached papers into a folder to form a loan application folder is regarded as the creation of an end product since the papers are all related and necessary to a specific purpose (i.e., applying for a loan). 10/31/89.

**430.0147 Laser Imaging.** Charges for printing of personalized letters by means of laser imaging are subject to tax. 4/9/86.

**430.0149 Marketing Consultation and Materials.** A business provides consulting services with respect to marketing strategy. The end result is a written report which is given to the customer. The report recommends “corporate positioning and/or thematic direction for acceptance by the client before approval is given to commence creative services.” For some customers, the business also provides tangible personal property such as brochures in addition to the reports.

If the consultation services are rendered prior to entering into any contract for tangible personal property, only the charges related to the tangible personal property are taxable. If there is a single contract for both consultation and property, the consultation will be regarded as a service related to the sale of the property and the entire charge will be taxable. 2/1/94.

**430.0150 Manufacturing Waste.** A printer purchases 1200 sheets of paper to do a printing job calling for 1000 sheets. 1100 sheets are used on the job. The remaining 100 sheets are not manufacturing waste. If the printer uses these sheets to create its own letterhead stationary, the printer owes use tax on the 100 sheets used for this purpose. 9/7/93.

**430.0158 Multiple Listing Service Books.** The real estate multiple listing services maintain listings on a computer data base which may be accessed via modem by the participants. The listings are also printed in book form. Many of the multiple listing services contract with outside vendors who both maintain the computer data base of listings and print the data base in a book format. These vendors charge input or insertion fees for each listing entered into the data base as fees for the multiple listing service books they print.

If the vendor's charge for an insert or for input into the data base is optional—that is, the vendor does not require the purchase of the service as part of the sale of the books—the charge for the data insert or input is not subject to sales tax. 4/13/92.

**430.0170 Out-of-State Printing.** The printing of stationery outside California upon orders from customers in-State for their use in California is subject to the use tax. 3/22/60.

**430.0180 Petitions and Briefs.** Sales tax applies to charges for printing petitions, appendices and briefs which are to be used in proceedings before the U.S. Supreme Court when the documents are delivered to the purchaser in California. 8/20/70.

**430.0190 Preprinted Post Cards.** A sale by an out-of-state firm of pre-printed post cards sent as a gift to recipients as specified by the customer are not subject to sales and use tax when the cards are deposited out-of-state by the seller. Title passes upon deposit at the out-of-state point and tax does not apply because the use occurs outside California. On the other hand, if the cards are mailed in bulk directly to the customer in California for subsequent mailing, tax does apply to the cards, but not to the separately stated charge for postage on the card. 11/26/90.

**430.0192 Price List Mailed Out-of-State.** Neither the California sales nor use tax apply to any of the charges made by an out-of-state printer for the production of a price list for a California consumer when the printer addresses and mails the price lists to many recipients specified by the consumer. Title to the price list and any other items contained in the envelope passes to the recipient upon deposit of the mail in a location outside of California. Use tax does not apply because the use, which is passage of title by gift, occurs outside of California. The sales tax does not apply because the sale occurs outside of California. 11/26/90.

**430.0194 Printing, Bindery, and Secretarial Service.** Sales tax applies to charges for printing, regardless of whether the customer furnishes the paper and photocopies. Charges for pre-press services (including stripping and cutting of stock to go to press) are includable in the gross receipts from the sales of printed matter.

Cutting and trimming, padding of forms, drilling and punching holes by machine and by hand, scoring and perforating by machine and by hand, numbering by machine and by hand, collating by machine and by hand, hand gathering of pages for booklets, stitching, book binding-Velo and spiral, punching holes for binding, folding by machine and by hand, and binding legal briefs for attorneys are a fabrication of tangible personal property. When performed for a consumer, tax applies to the total charge.

Tax does not apply to charges for typing original letters or forms for customers. If the composition of newsletter and flyers is merely the composition of type matter only with no artwork, tax does not apply to charges for such composition. 4/1/89.

**430.0195 Printing Blank Municipal Bonds.** A taxpayer prints blank municipal bonds and sells the blank bonds to various banks in California. The banks do not sell blank bonds to investors. The bonds must be registered before they are sold to investors. Part of the registration process consists of the bonds being dated as of a registration date, signed by both the county and municipality guaranteeing the bond and the bank registering the bond, and printed with the signature of the county or municipality issuing the bond through a facsimile, rubber stamp or a signature plate containing the official signature.

As registering agents for the counties and municipalities, the banks issue bond certificates to investors. The banks use the forms as part of the registration service that they perform. The certificates are only an indicia of the investor's ownership interest in the municipal bonds. Investors do not enter into contracts with the banks to purchase the security document itself, but rather the interest in the bond that the document represents. The transfer of the bonds to the investors is incidental to the banks' service of registering the bond. For sales and use tax purposes, the banks are the consumers of the forms they use in performing registration services, not retailers of the forms to the investors or to the entity which issue the bond. The taxpayer's sales of the printed blank bonds to the bank are subject to the tax. 9/12/96.

**430.0225 Services as Part of the Sale.** Charges for gathering together a lab analysis, clarifying requirements and obtaining proof of mailing in connection with the printing of an annual report are part of gross receipts. While these functions may not be fabrication labor, they are services which must be paid as a condition of receiving the printed matter. As such, they are "services that are part of the sale" under section 6011(b)(1) and 6012(b)(1). 8/23/90.

**430.0226 Services that are Part of the Sale—Typesetting.** Taxpayer sells party items such as napkins, ribbons and wedding favors. If the customer so orders, the taxpayer will imprint names, dates, etc., on the party items. The imprinting is done with a Kinsley machine by inserting type faces and then stamping the imprint on the item being personalized.

Although there is an exemption for the service of typesetting, the exemption does not apply if the service is part of the sale of the printed matter, as it is in this situation. The sale is of imprinted items and all charges connected to the fabrication thereof are part of the gross receipts subject to sales tax. 5/3/91.

**430.0227 Services to Publishers.** A taxpayer receives an author's paper manuscript and word processing disk files from a publisher. The paper manuscript is edited and sent to the author for approval. The corrections are entered onto the original computer disk files. Page layouts are prepared, including any computer generated illustrations that are required. Proofs are then printed by computer and copies are sent to a proofreader, the publisher, the author, and an indexer. Corrections are returned, the computer files are changed, and new proofs are printed for confirmation. The file is then sent to a local firm for production of lithographic film negatives. The film is returned for inspection and packaging. The film and the proofs are then sent to an out-of-state printer. The contract provides that title to all tangible personal property purchased as manufacturing aids passes to the publisher prior to use by the taxpayer.

When the tangible personal property is sold to the publisher in this state, tax applies to this sale regardless of the fact that the final product is shipped to a point outside this state. This includes conversion of data from IBM to Macintosh compatible when subcontracted to a third party and sets of photocopies sent to the proofreader, publisher, author and indexer which are shipped to persons in this state. It does not include the lithograph film if no use is made prior to shipment outside the state. Inspection and packaging of the film would not be a "use." 10/19/94.

**430.0228.200 Stamps and Stamped Envelopes.** A taxpayer will be selling at retail stamps and stamped envelopes over the counter and through vending machines. The stamps will be contained in folders or wrappers. The stamped envelopes will be either postage imprinted envelopes purchased from the United States Postal Service or envelopes purchased from private vendors upon which stamps are attached. All stamps and stamped envelopes are sold for purposes of postage and not for the purpose of stamp collection.

When a person purchases stamps for the purpose of postage, the true object is to obtain the performance of postal service. Gross receipts from the sale of U.S. Postal Service stamps sold for the purpose of postage are not subject to tax. The folders or wrappers containing the stamps are "containers." Since the sale of postage stamps for postage is not subject to tax, neither is the sale of containers holding those stamps. (Section 6364(b).)

Envelopes are tangible personal property the retail sales of which are subject to tax. The face value of the postal charges, whether in the form of stamps attached to envelopes or postage imprinted on envelopes by the Postal Service, may be subtracted from the taxpayer's taxable gross receipts.

Sales tax applies to sales through vending machines of stamps and stamped envelopes in the same manner as discussed above. 3/12/87.

**430.0230 Word Processing.** A word processing operator keyboards and records an address list and standard letter on magnetic media. The letter is then automatically typed to each person on the address list. The pre-recorded address list is then used to address envelopes inserted into the machine. The charges made for setting up the machine, keyboarding the material and typing out the letters automatically are taxable. The charges made for addressing the envelopes are nontaxable if separately stated.

An author brings a word processing company a manuscript (could come in many forms—dictated on a cassette, handwritten, previously typed, or a combination of all three). The operator keyboards the material and records it on magnetic media. A draft copy of each page of the recorded material is printed out (typed automatically) and given to the author to proofread. The author makes corrections and changes on the draft and returns it to the operator. The operator makes the necessary changes using the word processing machine. A final copy is then printed out for the author to submit to a publisher. The charges made for the original keyboarding of the manuscript, printing out the draft copy, editing, and printing out a final copy are nontaxable. If carbon copies are prepared at the time of the original copy they are nontaxable. If photocopies are prepared they are taxable.

An attorney brings several paragraphs to a word processing company which uses word processing equipment to keyboard and record the paragraphs on magnetic media to form a “paragraph library.” The attorney can then notify the company to select, for example, paragraphs 1, 8, 11, 29, 16, 12, 87, 100, 56, and 57 in that order to create a will for his client. The attorney provides variable information to be inserted into proper position in the paragraphs, for example: maker of the will, maker’s spouse, maker’s children and their date of birth, city and county of residence. The operator instructs the machine (with keyboard commands) to assemble those specified paragraphs with the necessary variable client information and print out (automatically type) a will. All of the charges made for keyboarding original paragraphs, printing out a draft of all paragraphs for the attorney’s use, assembling the paragraphs as requested, and printing out individual wills and any carbon copies of the original are nontaxable. If any photocopies are made, they are taxable.

A client has a list of 2,000 names that he is going to use monthly for a mailing. Every month the list has to be typed on labels to be applied to envelopes, sorted into zip code sequence, and mailed. The word processing company keyboards the names and addresses and records them on magnetic media. The machine is instructed (using keyboard commands) to sort the names into correct zip code sequences before the list is finally stored on the magnetic media. Each month the equipment is set up and, with an operator in attendance (giving keyboard commands), the names are printed (automatically typed) on continuous form labels. The charges made by the word processing company for keyboarding original names and addresses, setting up and performing sorting, and the monthly set up and print out of the names onto labels are all nontaxable charges for addressing.

When a word processing company types identical letters using word processing equipment, the charges made are taxable since the work is taxable printing. If the same letters are typed by a typist on a regular typewriter, tax does not apply.

Tax does not apply to charges made when a word processor is used to produce copy which is acquired and used exclusively for reproduction purposes since Revenue and Taxation Code section 6010.3 excludes typography from the definition of sale or purchase. 7/2/82; 7/16/82.

#### **(b) PRINTING AIDS**

**430.0242 Artwork Licenses.** A taxpayer obtains the license to use artwork from an artist. The taxpayer licenses the use of the design to clothing manufacturers who reproduce the artwork on items of clothing. The taxpayer transfers to the clothing manufacturer the very same artwork which was obtained from the artist rather than a reproduction. Assuming the artwork is not returned to the artist, the artist’s transfer of

artwork to the taxpayer is a sale for resale. The taxpayer's transfer to the clothing manufacturers is taxable unless the transfer constitutes a sale in interstate commerce or is otherwise exempt. 6/14/94.

**430.0244 Camera-Ready Art.** A graphic artist does the design, layout, and prepares camera-ready art for a client who publishes a monthly newsletter. On occasion, the artist may also contract to print the newsletter.

In those cases where the artist only sells the camera-ready art, the sale from the artist to the client is subject to tax, even if the sale of the printed matter is exempt. For example, an artist contracts to provide only camera-ready art for the client, and the client separately contracts with a printer for the printing work. The delivery of the camera-ready art to the client, or to the printer for the benefit of the client, would result in a taxable sale even if the printer's sale to the client is exempt.

On those occasions when the artist contracts with the client to print and sell the newsletter to the client, the gross receipts from the sale of the newsletters would not be subject to tax if the sale is for resale or qualifies for the periodical exemption. In such cases, if the artist only incidentally produces the camera-ready art for its own use, as a manufacturing aid, and does not transfer title or possession of the artwork (manufacturing aid) to the client, then the artist is the consumer of the camera-ready art. If this occurs, tax would apply to the sale of materials to the artist, which were used to produce the camera-ready art. 11/27/89.

**430.0246 Charges for Camera-Ready Copy.** A printer prepares camera-ready copy and uses it to print equipment operating manuals which are sold to the seller of the equipment. The operating manuals are sold ex-tax for resale. The printer retains title to and possession to the camera-ready copy and eventually discards it. The printer makes a separate charge for the camera-ready copy to the customer. Since the camera-ready copy is not sold to the customer, the charge for it is regarded as part of the charge for the manuals. Since the sale of the manuals is not subject to tax, tax does not apply to the separate charge for the camera-ready copy. 1/7/75.

**430.0255 Computer-Generated Artwork.** A retailer of keyboarding or computer services generates computer artwork, such as company logo or illustration, which become the property of the customer.

Charges for computer-generated artwork, graphics, designs or logos are subject to tax where the true object of the contract is the output and not the services rendered in providing the object. 11/2/92.

**430.0288 Lease and Sublease of Intermediate Products.** An advertising agency leases photographs and illustrations from photographers for use as manufacturing aids to produce finished art. The advertising agency's use of a title passage clause in its contracts with clients is inappropriate when it uses the leased photographs in preparing property it sells to its clients because, by leasing the photographs and illustrations from photographers, the advertising agency does not have title to the photograph to pass to the client.

If the advertising agency acts as an agent to its client under Regulation 1540(a)(2)(A), it may lease the photographs and illustrations from the photographer on behalf of the clients. In that case, the agency should pay use tax to the lessor on behalf of the client. The agency's reimbursement for the lease should be listed and priced separately from the agency's charge for the final product.

An advertising agency who wishes not to act as an agent on behalf of the client but rather to sublease the property to the client may timely pay use tax to the photographer (lessor) and, prior to making any use of the property, lease the property to the client in substantially the same form as acquired. If it does so, its sublease to the client is not taxable. The advertising agency may alternatively issue a resale certificate to the lessor and, prior to making any use of the property, sublease the property to the client, collecting use tax from the client on that sublease. In the latter event, the advertising agency's sublease of the property is subject to use tax regardless that the agency's sale of the final product to the client is exempt from tax (i.e., sales in interstate commerce) or is a nontaxable sale for resale. When the advertising agency acts as the seller, the following clause between the agency and its clients would be acceptable evidence that the property was subleased to the client prior to use by the advertising agency:

“It is expressly understood that, when the agency leases from lessors intermediate products, such as photographs and illustrations, the agency subleases such property to you prior to any use by the agency whether or not the agency transfers possession of the property to you. Any use of the leased property by the agency is on your behalf.” 7/17/97.

**430.0290 Leased Photograph.** A printer may lease stock photographs under a resale certificate, if the printer has an agreement with its customer to sublease the photograph to the customer prior to its use. 10/19/94.

**430.0338 Reusable Printing Aids.** If printing aids of unique utility to a particular customer are reusable, they are “special printing aids” within the meaning of the Regulation 1541 even though they are not in fact reused. 10/16/85.

**430.0340 Negatives and Plates.** Sale for use by printers before transfer of title to their customers is taxable as retail sale. Where printer is in doubt as to time he will use material, he should pay tax to vendor and deduct cost later from return if resold before use. 10/30/50.

**430.0340.800 Printed Sales Messages/Printing Aid.** A company contracts separately with an advertising agency to do the mechanical through the color separation process and a printer to do the printing, with each company billing separately. Provided the transaction meets all the other requirements of a sale of a “printed sales message,” the sale by the advertising agency would not qualify as a sale of printed sales messages. Only the printer’s sale of the printed matter could qualify an exempt sale.

An agency purchases for resale photography, art, and other products or services that become a component part of the finished product. It passes title to the company prior to any use by the agency. The agency partially develops the product in one geographical area, ships it to another geographical area, both in California, for completion by another contractor working for the agency. The contractor, in turn, ships the product to an out-of-state printer who prints the insert and ships it directly to a California newspaper for distribution. The customer is billed for the mechanical/color separation separately from the printing.

Under these facts, and assuming that the company is contracting only with the advertising agency for the purchase of printed matter, the application of tax to the advertising agency’s charge for the photography, art, and other property it purchases for resale depends upon whether the advertising agency makes any use of the property in California prior to shipping it out of state. If the advertising agency produces, or has the subcontractor produce, a color separation in California, the photography and art do not become an ingredient or component part of the color separation. The image embodied in the photograph or art is only reproduced in the color separation and the photograph or art is used as an aid in producing the color separation. Since the advertising agency sells the photograph and art prior to such use, and the sale is in California, sales tax applies to the advertising agency’s sale of the printing aids. This is true regardless that the sale of the color separation may be exempt from sales tax as a sale in interstate commerce or that the sale or use of the printed matter may qualify for exemption as a printed message or as a component part of a newspaper. 1/9/89.

**430.0342 Split Sale.** A printer makes a “split sale” of printed matter, where a portion of the printed matter is “ultimately subject to sales tax” under Regulation 1541 and a portion is not. The printer purchases special printing aids for the job, but does not separately itemize charges for these aids when billing the customer. The printer owes sales tax on its selling price of the special printing aids, which is the amount the printer paid for the special printing aids or their components. If the printer reports tax on the sale of the printed matter that is equal to or greater than the tax due on the sale of the special printing aids, no further tax is due. If the tax due on the sale of the special printing aid is equal to or greater than the tax due on the sale of the printed matter, no further tax is due beyond the tax due on the sale of the special printing aids. 08/21/2000. (2001–2).

**430.0344 Title Clause on Photographs.** After having signed an agreement with its customer, containing a passage of title clause, an advertising agency purchases a photograph under its resale certificate. Assuming that, under the terms of the agreement, the ad agency transfers title to the photograph to its

customer prior to use, the sale of the photograph to the agency is nontaxable. Tax applies to the agency's retail sale of the photograph to the customer.

If the agency purchases a photograph under its resale certificate and title does not pass to the customer, the exercise of any right or power over the photograph other than the sale of the photograph, is a use of the photograph and the agency would owe use tax on the purchase price of the photograph. 3/30/93.

**430.0344.5 Transfer of Artwork for Reproduction Purposes.** Corporation B purchases original artwork and issues resale certificates to sellers. Under the purchase agreements, B has all rights and interest in the artwork, including reproduction and licensing rights. B then transfers possession of the artwork to Corporation A which uses the artwork to make reproductions. After Corporation A has finished using the artwork for making the reproductions, it returns the artwork and pays B.

Under this scenario, B is leasing the artwork to A. The lease is a continuing sale and purchase since B issued a resale certificate when it purchased the artwork, and B must collect and pay use tax measured by the amount of consideration it receives from A. This includes all the amounts B receives from A under the transaction, whether it is referred to as royalties or licensing fees, and whether it is paid as a lump sum, periodically or based on the number of reproductions sold.

If Corporation B photographs the original artwork and sells the negative to A, who uses the negative to make reproductions, B has made a taxable use of the artwork and must pay use tax measured by its purchase price. B has also made a sale of the negative to A and must pay sales tax on the sale. The gross receipts subject to tax includes all the consideration received from Corporation A, no matter what label is given to such amount (i.e., royalties, licensing fees, etc.). 1/20/93.

(c) COMPOSITION; TYPOGRAPHY; "REPRODUCTION PROOFS;" PASTE-UPS.

**430.0350 Composed Type and Reproduction Proofs.** The product of a photocomposition machine, consisting of words arranged into sentences and paragraphs on film, is cut and assembled into a product which is the equivalent of a locked up chase of type produced by the hot type method, as, for example, a page of a book or a complete advertisement with headlines, but not including artwork. The cut and assembled product qualifies as composed type and a direct copy of it qualifies as a reproduction proof. However, a copy of a copy of composed type, even though made to remove defects in the first copy, does not qualify as a reproduction proof. 4/10/79.

**430.0360 Composed Type or Reproduction Proofs, Fabrication and Transfer of.** A person who uses an IBM composer to type copy, who sometimes sets the "display head" on a Headliner machine and pastes that on the copy, and who also rules forms and places them in the composer to type in the small headings, and who transfers his product to a printer who photographs it to make a plate for use in printing, occupies the status of a typographer who is fabricating and transferring composed type or reproduction proofs for use in the preparation of printed matter and his charges are not taxable. 11/21/68.

**430.0370 Computer Tape.** The transfer of computer tape in computer language as distinguished from "human readable form" is not within the exclusion of section 6010.3 as "composed type." 12/23/76.

**430.0375.150 Direct Output Typography.** Charges for reproduction proofs directly off the typesetting machine which are given to the customer are not taxable. 11/22/88.

**430.0379 Out-of-State Preparation of Camera-Ready Art and Paste-Ups.** A California publisher purchases typography, camera ready art, and paste-ups for use in publishing books. Since all of the typography includes artwork, its transfer is subject to tax unless otherwise exempt. These items are purchased from both instate and out-of-state sources. After review of the products in California, they are sent by the publisher to out-of-state printers for use.

Purchases from out-of-state retailers are not subject to tax pursuant to section 6009.1 if they are not used in California and are shipped out of state for use solely outside of California. Sales by California retailers are

generally subject to sales tax since they are delivered in California. However, in some cases the property sold by a California retailer is sent to the publisher and then returned to the California retailer by the publisher for last minute changes. The property is then shipped by the retailer to the out-of-state printer pursuant to the contract of sale. Under these circumstances, the sale by the California retailer is exempt from tax as an interstate sale. The temporary transfer to the publisher for approval would not negate the exemption. 3/11/82.

[430.0380](#) **Paste-Ups.** “Paste-ups” in which reproduction proofs are added to illustrations to create finished art are subject to tax measured by the sale price of the finished art, including any part of the sale price attributable to typography. 8/11/80.

[430.0381](#) **“Paste-Ups.”** A small typography shop does no printing, only cold type composition. Occasionally, a customer will ask for a “paste-up” of typed matter, i.e., type is produced by phototypesetting and affixed to pasteboard by an adhesive wax. Examples would be business cards, letterheads, envelopes, etc. These “paste-ups” contain no artwork.

These items constitute typography or reproduction proofs and do not constitute taxable paste-ups. Tax does not apply to cold type composition, including what may be characterized as “page make-up,” provided it does not include artwork. 10/3/78.

[430.0386](#) **Paste-Ups by Independent Contractor.** A publisher of a weekly newspaper which is distributed without charge hires an independent contractor to paste up an editorial and advertising copy.

When an independent contractor is hired to work on the production of a paste-up which consist of typed matter and illustrations or other artwork, the person performs taxable fabrication labor under section 6006(b). The paste-up is a manufacturing aid used to produce the newspaper. Therefore, the independent contractor’s charges are subject to sales tax. 1/7/94.

[430.0400](#) **Photographs of Paste-Up.** A newspaper makes a page paste-up, consisting of photographs and typography, and delivers it to a photographer, who takes a photograph of the paste-up and delivers both to the newspaper. The photograph is used by the newspaper for making a plate to print a page in the newspaper. The photographer is regarded as making a retail sale of tangible personal property and tax applies to his gross receipts. 3/8/67.

[430.0406](#) **Photostat.** A small typography shop occasionally finds it necessary to have a photostat made of typed matter (photo composition type) by a local camera shop. The camera shots include no artwork and are used to make the type fit the customers’ specifications. Since the customers want to know what the actual typography charge is apart from the camera work, the camera work is listed separately on the invoice.

The photostat would qualify as either “composite type or reproduction proof” and the charge made by the typography shop to the customers would be nontaxable without regard to the manner of billing. However, tax would apply to the charges made by the camera shop for the photostats. The fabrication and transfer of the photostat by the camera shop does not qualify as a transfer of typography. The sale by the camera shop is a retail sale since the subsequent transfer of the photostat by the typography shop to the customer is not a “sale” transaction. 4/9/79.

[430.0410](#) **Product Bar Code.** A product bar code (UPC symbol) will not be regarded as artwork for purposes of Regulation 1541. The transfer by a typographer of composed type combined with a product bar code is a nontaxable transfer of typography. 8/31/90.

[430.0440](#) **Reproduction Proofs.** If the typographer actually sells the photostats, engravings, etc., after he has used them in the production of typography, his sale is a retail sale unless his customer will resell them before making any use of them and the tax will be applicable to the typographers gross receipts. If . . . however . . . the cost of the photostats and engravings is merely a part of the charge for the setting of the type or making up the form from which reproduction proofs are made, delivering only the reproduction

proofs and not selling the photostats and engravings, his gross receipts would not be taxable. It is immaterial whether the proof consists of black ink on white paper or white ink on black paper.

. . . If a photostat of a reproduction proof is made and title to the photostat is transferred to the customer, the tax is applicable to the total charge made for the furnishing of the photostat of the reproduction proof. The photostat is not a “reproduction proof.” 5/16/50.

[430.0460](#) **Reproduction Proofs—Art Work and Musical Notations.** The sale of reproduction proofs produced by a music typesetter is subject to the sales tax on tangible personal property. Although reproduction proofs of composed type are generally exempt from sales tax, reproduction proofs of art work and musical notations are not exempt. 3/23/70.

[430.0464](#) **Reproduction Proofs and Typography.** Section 6010.3 of the Revenue and Taxation Codes excludes from the definitions of “sale” and “purchase” the transfer of reproduction proofs or impressed mats to a printer or publisher. The statute does not specify that the transferor be a typographer. Thus, a person who purchases a reproduction proof from a typographer, adds a mark-on, and sells the proof to a printer or publisher enjoys the exclusion contained in section 6010.3. 6/12/85.

**430.0485 Type—Enlarged and Reduced.** A typographer who does not have the font size desired by a customer, prints a copy of the type from its computer, but in a size other than that requested by the customer. The typographer then enlarges or reduces that copy, via a stat camera, to the font size desired by the customer.

The composition of type is not complete until the typographer has complied with the requirements of the typography contract, to supply composed typography of the desired font size. Thus, enlarging or reducing type in this manner to the desired font size, qualifies as nontaxable typography. 6/23/93.

[430.0487](#) **Typesetter Subcontracting Printing.** A typesetter occasionally purchases printing for resale to his customer as a convenience to the customer. He bills the customer separately for the typesetting and the printing. Tax applies to the total charge to the customer. If the customer cancels the printing order and merely takes possession of the typography, tax does not apply. 1/25/84.

[430.0498](#) **Typography and Proofs.** Charges for reproduction proofs provided to the customer by means of diffusion transfers, negatives, or prints are not taxable. 11/22/88.

[430.0500](#) **Typography and Reproduction Proofs, Advertising Agencies.** Typography expenses billed to clients of advertising agencies for reproduction proofs used in paste-ups are subject to tax. Paste-ups are finished art work produced for use of the client and are taxable under Regulation 1540. 12/21/65.

**430.0505 Typography and Transfer of Plate.** “Typography” is transferred to the customer in the form of “final film” (commonly called a flat). The flat is used in a plate machine to produce the printing plate that will be used in the printing process. The flat does not qualify as typography. A flat is an additional step beyond mere composition of type. Thus, the retail sale of flats are subject to tax without any deduction on account of the cost or expense of typography. (Regulation 1541 (f)(5).) 6/23/93.

**430.0510 Universal Product Code.** A Universal Product Code symbol combined with typesetting is considered to be nontaxable typography. The UPC is not considered artwork. 8/31/90.

[430.0550](#) **Graphic Design for a Newsletter.** A taxpayer generates camera-ready art for a newsletter for a customer. A lump-sum charge is made for typeset and layout of articles, design of new advertising, and redesign of previous advertisements. A separate charge is made for the actual camera-ready output which the taxpayer purchases.

Tax applies to the transfer of typed matter combined with artwork in the form of a paste-up, mechanical, assembly, computer disk or camera-ready copy. When a taxable sale of camera-ready art is made, the entire

charge is taxable including any portion of the charge which is attributable to typography whether or not that charge is separately stated. 1/25/95.